

IDAHO BOARD OF CHIROPRACTIC PHYSICIANS
Bureau of Occupational Licenses
700 West State Street, P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 4/18/2014

BOARD MEMBERS PRESENT: James E. Hollingsworth, D.C. - Chair
Michael Troy Henze, D.C.
Charles H. Coiner
Mary Jo White, D.C.
Kathleen Joann McKay, D.C.

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Administrative Support Manager
Lori Peel, Investigative Unit Manager
Maurie Ellsworth, Legal Counsel
Jean Uranga, Board Prosecutor
Marilyn London, Technical Records Specialist

OTHERS PRESENT: James Wear, D.C.
Ryan Fitzgerald, Association of Chiropractic Physicians
Ed Perkins, D.C.
Morgan Barkdull, D.C.
Leonard Ward, D.C.
Jason West, D.C.
William Higgins, D.C.
Tony Strasser, D.C.
James King, D.C.
Mark Johnston, Board of Pharmacy
Dave Price, D.C.
Molly Steckel, Idaho Medical Association

The meeting was called to order at 9:00 AM MDT by James E. Hollingsworth, D.C.

APPROVAL OF MINUTES

Dr. Henze made a motion to approve the January 10, 2014 minutes with a correction. It was seconded by Dr. White. Motion carried.

Dr. McKay made a motion to approve the minutes of February 28, 2014. It was seconded by Dr. White. Motion carried.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. She informed the Board that any law changes must be submitted by August 1 and rules changes by the 3rd week in August.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board has a cash balance of \$97,832.74 as of March 31, 2014.

DISCIPLINE

Ms. Uranga presented a memorandum that included cases CHI-2014-10, CHI-2014-12, CHI-2014-13, and CHI-2014-14. Dr. White made a motion to send a letter of reprimand on case CHI-2014-10 including clarification as to the doctor's bill that it is customary when treating family members to not bill for it. There was non-documentation of some of the procedures. Respondent is to take a coding course and no further reduction of bill. Dr. Henze seconded the motion. Motion carried.

Dr. Henze made a motion to direct Jean Uranga to send a letter to respondent in case CHI-2014-14 as previously discussed and send a letter to the Nevada Chiropractor Board for information. It was seconded by Dr. White. Motion carried.

After discussion, the Board gave recommendations for appropriate discipline on cases CHI-2014-12 and CHI-2014-13. Dr. White recused from discussion on case CHI-2014-12.

Ms. Uranga presented a Stipulation and Consent Order in case CHI-2014-3. Dr. White made a motion to approve the Consent Order and allow the Board Chair to sign on behalf of the Board. It was seconded by Dr. McKay. Motion carried.

INVESTIGATIVE REPORT

Ms. Peel gave the investigative report, which is linked above.

FOR BOARD DETERMINATION

Dr. McKay made a motion to approve the Bureau's recommendation and authorize closure in case I-CHI-2013-13. It was seconded by Dr. Henze. Motion carried.

Dr. McKay made a motion to approve the Bureau's recommendation and authorize closure in case I-CHI-2013-16. It was seconded by Dr. White. Motion carried.

Dr. Henze made a motion to approve the Bureau's recommendation and authorize closure in case I-CHI-2014-2. Dr. Hollingsworth recommended sending a letter telling the Respondent they did a wonderful job. Dr. Henze amended the motion to include that a letter be sent to respondent stating that they did a wonderful job and they are to be commended on a job well done. The amended motion was withdrawn. Dr. White amended the motion to direct the Chair to write a letter to the Respondent on behalf of the Board commending them on a job well done. It was seconded by Dr. McKay. Motion carried. Mr. Coiner abstained.

DISCIPLINARY

Ms. Peel presented a request on case CHI-2008-6 for a payment plan. Mr. Coiner made a motion that the Board takes no action on the request. It was seconded by Dr. White. Motion carried.

OLD BUSINESS

The Board reviewed the To Do List.

FORMULARY COMMITTEE REPORT

Dr. Henze presented the draft Formulary Sub-Committee report and reviewed and discussed it with the Board. The purpose of the sub-committee report was to provide recommendations to the Idaho Board of Chiropractic Examiners regarding the use of clinical nutritional methods. The intent of this subcommittee was to provide an outline of the vitamins, minerals, herbals, homeopathics, et al, as referenced in the Idaho Code 54-704(1) physiotherapeutic or clinical nutritional methods and Idaho Chiropractic Rule 020.

Mr. Coiner addressed concerns that chiropractors do not have prescriptive authority as stated in Idaho Code 54-704 and the scope of practice in Rules cannot go beyond what the law allows. He said, the draft is a good start, but it needs work.

Ms. Cory discussed the law and rule change process for executive branch agencies such as the Board and the timelines involved.

Dr. White asked if all the Board appointed Formulary Sub-Committee members were involved in the subcommittee as listed in previous Board minutes. She said Dr. Gaertner-Ewing was to be part of the subcommittee and it appeared she wasn't included. Further, Dr. Dennis Harper's name was on the report and he had not been appointed by the Board. Also the draft Formulary Sub-Committee's

report had not been given to the Bureau's attorney prior to the meeting for review. Dr. White said that this is a fine report, but the Board does not need to get in a hurry, but go to the next step in the process.

Mark Johnston, Director of the Idaho Board of Pharmacy, spoke to the Board and said he appreciates chiropractors and their profession. He stated that the Board of Pharmacy interprets Idaho Code 54-704 to mean that chiropractors do not have prescriptive authority. The Idaho Board of Pharmacy put in their March newsletter that Idaho Code, Section 54-704 reads: "nothing in the Chiropractic Practice Act shall allow any chiropractor to direct or suggest a patient use a substance that requires the label 'Caution: Federal law prohibits dispensing without a prescription.'" In the past, the Board of Pharmacy has entered into stipulated order with wholesalers who have distributed prescription items to Idaho chiropractors. Mr. Johnston indicated that after briefly reviewing the Formulary Sub-Committee report that he sees some concerns.

The Board decided to schedule conference call meetings every two weeks with May 2, 2014 at 1:00 PM being the first, to work on the Formulary Sub-Committee report and discuss how the Board wants to proceed.

NEW BUSINESS

Mr. Coiner left the meeting.

CORRESPONDENCE

The Board reviewed a letter from Henry Schein a pharmaceutical company asking if a licensed chiropractor can purchase Dextrose Injectable, 50ml /V1. Dr. Henze made a motion to write a letter stating that an Idaho licensed chiropractor can purchase Dextrose Injectable, 50ml/V1. Dr. White seconded the motion. Motion carried.

The Board reviewed a letter from a chiropractor asking the Board to consider changing the renewal deadline to allow for weekends and holidays and refund the \$250 reinstatement fee. Dr. White moved that the Board write a letter stating that the Board cannot change the renewal deadline or waive the \$250 reinstatement fee. Dr. McKay seconded the motion. Motion carried.

The Board reviewed a letter from a chiropractor asking the Board for reconsideration on the \$250 reinstatement fee on their inactive license. Dr. White moved that the Board write a letter denying their request for waiving the \$250 reinstatement fee on their inactive license. Dr. Henze seconded the motion. Motion carried.

The Board reviewed a letter from Henry Schein pharmaceutical company asking if Lidocaine Hcl injectable is within the chiropractor scope of practice. Dr. McKay

made a motion that Lidocaine Hcl injectable is not within the chiropractor scope of practice. Dr. White seconded the motion. Motion carried.

The Board reviewed a letter from Radiology Professionals, Inc. asking if they can receive digital images without a license in Idaho and if there are any special rules before acquiring images. Dr. Henze made a motion to write a letter and refer the Radiology Professionals, Inc. to Idaho Code 54-705(d). Dr. White seconded the motion. Motion carried.

The Board reviewed a letter from a chiropractor asking about recognition of a chiropractic specialty. Dr. Henze made a motion that the Board sends a letter stating that the chiropractor code does not include recognition of a chiropractic specialty. Dr. McKay seconded the motion. Motion carried.

The Board reviewed two letters asking if chiropractors can do physical examinations to medically certify a driver as physically qualified to drive a commercial motor vehicle. Dr. Henze made a motion that chiropractors can do physical examinations to medically certify drivers as physically qualified to drive commercial motor vehicles. Dr. White seconded the motion. Motion carried.

CONTINUING EDUCATION COURSES

Dr. Hollingsworth asked the Board about appointing a Board member to review continuing education courses that are on a timeline prior to a regular board meeting. Dr. Henze made a motion that the Board gives authority to the Board Chair to review continuing education courses, if necessary, in-between board meetings and bring the courses to the next Board meeting. Dr. White seconded the motion. Motion carried.

The Board reviewed two courses titled, "100 Hours Acupuncture Certification Course and 10 hours Acupuncture Review Course," from Kim Dorsey. Dr. White made a motion to accept both courses. Dr. Henze seconded the motion. Motion carried.

The Board reviewed three courses titled, "Professional Therapies Northwest, LLC," "Enhancing Outcomes in Vestibular Rehab, Kinesio Tape I and II," and "Parkinsons and MS Update: Practical and Evidence-Based Rehab," from Nancy Skaale. Dr. McKay made a motion to accept all three courses. Dr. White seconded the motion. Motion carried.

The Board reviewed courses from the International Chiropractic Association of California. Dr. McKay made a motion to accept the courses. Dr. White seconded the motion. Motion carried.

The Board reviewed a course titled, "Nutrition – A Practice Course: Documentation and Records Keeping: and Adrenal Fatigue." Dr. Henze made a

motion to hold the courses pending until completion of questions 10 and 12 on the form. Dr. White seconded the motion. Motion carried.

The Board reviewed courses from the 2014 California Chiropractic Association Convention. Dr. McKay made a motion to accept these courses from the 2014 California Chiropractic Association Convention. Dr. White seconded the motion. Motion carried.

EXECUTIVE SESSION

Dr. Henze made a motion that the Board go into executive session under Idaho Code § 67-2345(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the Executive Session was to consider license application materials. It was seconded by Dr. White. The vote was: Dr. McKay, aye; Dr. White, aye; Dr. Henze, aye; and Dr. Hollingsworth, aye. Motion carried.

Dr. White made a motion to come out of executive session. It was seconded by Dr. McKay. The vote was: Dr. McKay, aye; Dr. White, aye; Dr. Henze, aye; and Dr. Hollingsworth, aye. Motion carried.

APPLICATION

Dr. Henze made a motion to write a letter to applicant 901025636 regarding their application stating that they have the choice to take the National Boards Chiropractor Examination Part IV or the Special Purposes Examination to complete the requirements for licensure. Dr. White seconded the motion. Motion carried.

NEXT MEETINGS were scheduled for May 2, May 16, June 13, and June 27, 2014.

ADJOURNMENT

Dr. McKay made a motion to adjourn the meeting at 12:55 PM MDT. It was seconded by Dr. White. Motion carried.

James E. Hollingsworth, D.C., Chair

Michael Troy Henze, D.C.

Charles H. Coiner

Mary Jo White, D.C.

Kathleen Joann McKay, D.C.

Tana Cory, Bureau Chief